

IPCB

Illinois Pollution Control Board



ANNUAL REPORT

Fiscal Year

2022

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ILLINOIS POLLUTION CONTROL BOARD



<https://pcb.illinois.gov/>

Chicago Office

60 E. Van Buren St.
Suite 630
Chicago, IL 60605
312-814-3620 TTY: 866-323-1677

Springfield Office

1021 North Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274
217-524-8500 TTY: 866-323-1677

MISSION STATEMENT

The Illinois Environmental Protection Act was enacted in 1970 for the purpose of establishing a comprehensive State-wide program to restore, protect, and enhance the quality of the environment in our State. To implement this mandate, the Act established the Illinois Pollution Control Board and accorded it the authority to adopt environmental standards and regulations for the State, and to adjudicate contested cases arising from the Act and from the regulations.

With respect for this mandate, and with recognition for the constitutional right of the citizens of Illinois to enjoy a clean environment and to participate in State decision-making toward that end, the Board dedicates itself to:

- ❖ The establishment of coherent, uniform, and workable environmental standards and regulations that restore, protect, and enhance the quality of Illinois' environment;
- ❖ Impartial decision-making that resolves environmental disputes in a manner that brings to bear technical and legal expertise, public participation, and judicial integrity; and
- ❖ Government leadership and public policy guidance for the protection and preservation of Illinois' environment and natural resources, so that they can be enjoyed by future generations of Illinoisans.





IPCB

Illinois Pollution Control Board

December 2022

GOVERNOR

JB Pritzker



CHAIR

Barbara Flynn Currie



MEMBERS

Cynthia Santos
Jennifer Van Wie
Michelle Gibson



CHICAGO OFFICE

60 E. Van Buren St.
Suite 630
Chicago, IL
60605

Main: 312-814-3620

FAX: 312-814-3669

TTY: 866-323-1677



SPRINGFIELD OFFICE

1021 N. Grand Ave. East
P.O. Box 19274
Springfield, IL
62794-9274

Main: 217-524-8500

FAX: 217-524-8508

TTY: 866-323-1677



WEBSITE

<https://pcb.illinois.gov/>

Honorable JB Pritzker, Governor of Illinois, and Members of the General Assembly:

The Illinois Pollution Control Board is proud to present its Annual Report for fiscal year 2022. I remind us of the Board's statutory roles, highlight an especially significant Board proceeding from the past year, and preview the balance of this report. But first, I note that the Board's Chicago office has a new location.

We Moved! In May 2022, the Board moved its Chicago office across the Loop from its longtime space in the James R. Thompson Center to 60 East Van Buren Street, Suite 630. Executing the move without disrupting Board operations required a Herculean effort from the Board's staff, which, true to form, rose to the occasion. For that, I again offer my profound thanks to each staff member. Instructions for accessing the new Chicago office, which includes the Clerk's Office, may be found in the Board's updated administrative rules (2 Ill. Adm. Code 2175.115(d)).

Board Roles. Under its founding statute, the Environmental Protection Act (Act) (415 ILCS 5), the Board primarily conducts two types of proceedings: rulemakings and adjudications. Through rulemakings, the Board adopts regulations that establish Illinois' environmental standards and requirements for ensuring clean air, land, and water. Through adjudications, the Board decides contested environmental cases, including complaints that allege violations of the Act and Board regulations; petitions that ask for review of permitting and leaking underground storage tank determinations made by the Illinois Environmental Protection Agency (IEPA); petitions that ask for review of pollution control facility siting determinations made by local governments; and variance and adjusted standard petitions that seek relief from Board regulations. Five years ago, the Act was amended to task the Board with conducting a third type of proceeding, one that is neither a rulemaking nor an adjudication: a "time-limited water quality standard" proceeding, which is a form of temporary regulatory relief



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that the Board may grant for a single discharger, multiple dischargers, a watershed, a water body, or a waterbody segment.

FY22 Proceedings. The Board usually has about 150 to 200 proceedings pending before it at any one time. During fiscal year 2022, the Board continued to conduct these proceedings while operating within its budget.

One proceeding stands out. In November 2021, the Board adopted Illinois' first time-limited water quality standard (TLWQS). In this proceeding, the Board issued a 15-year watershed TLWQS for chloride to 48 petitioners that discharge into the Lower Des Plaines River watershed and portions of the Chicago Area Waterway System watershed. These watersheds do not meet the current chloride water quality standard during the winter due largely to the necessary use of road salt for public safety. During the TLWQS' term, the dischargers must achieve the highest attainable condition of the watersheds by complying with the Board's specified requirements, which include implementing best management practices, submitting annual reports to IEPA, and filing re-evaluations with the Board at five-year intervals. The ultimate objective remains compliance with the underlying chloride water quality standard, which continues to apply to dischargers not covered by the TLWQS. Here are links to the relevant orders: the Board's November 4, 2021 [order](#); and the Board's January 6, 2022 [order](#). The TLWQS proceeding is captioned Village of Homewood *et al.* v. Illinois Environmental Protection Agency, PCB 16-14 *et al.* (consol.).

Annual Report. This FY22 Annual Report covers two areas:

- ❖ Completed rulemakings of the Board; and
- ❖ Enacted legislation—from the General Assembly's 2022 Session—related to the Board's work.

In a typical fiscal year, the Board's Annual Report would also discuss judicial decisions issued on appeal of Board final orders. During Fiscal Year 2022, however, no such judicial decisions were issued.

If you have any questions about these materials or the Board, please let me know.

Sincerely,



Barbara Flynn Currie
Chair



BOARD MEMBERS



❖ **Chair Barbara Flynn Currie**



Barbara Flynn Currie served many terms in the Illinois House of Representatives. In 1997, she became House Majority Leader—the first woman to hold the title—and held the post until she retired from the General Assembly at the beginning of 2019. She sponsored the State’s first Freedom of Information Act and the Illinois Earned Income Tax Credit. She was a champion for clean air and water; she spearheaded reforms in State funding for public education and in the juvenile justice system. She has been honored by many organizations, including the Illinois ACLU, Planned Parenthood, Illinois AFL-CIO, Illinois Environmental Council, Friends of the Parks, the Illinois Council Against Handgun Violence, and the Illinois Campaign for Political Reform. Barbara earned her A.B. and M.A. degrees from the University of Chicago.

❖ **Cynthia Santos**



Board Member Santos was appointed to the Board by Governor Bruce Rauner in December 2016. Before joining the Board, Ms. Santos served 20 years as an elected Commissioner of the Metropolitan Water Reclamation District of Greater Chicago. During her tenure there, she was instrumental in the development of the District’s Stormwater Management Program. She also served as the District’s representative on the City of Chicago’s Public Building Commission, where she was involved in the construction of numerous schools, libraries, and police and fire stations. Ms. Santos earned a bachelor’s degree in political science, summa cum laude, as well as a master’s degree in political science and public policy from Northeastern Illinois University. Ms. Santos resides in Chicago.



❖ Jennifer Van Wie

Board Member Jennifer Van Wie was appointed to the Board by Governor JB Pritzker in August 2020. She previously worked as an Assistant Attorney General in the Illinois Attorney General's Office. While in the AGO Civil Environmental Bureau, she handled numerous significant cases dealing with air, water, and land pollution and natural resource damages. Ms. Van Wie also has experience in private practice in both Illinois and Wisconsin where she advised clients on state and federal environmental laws and regulations, including matters specific to the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

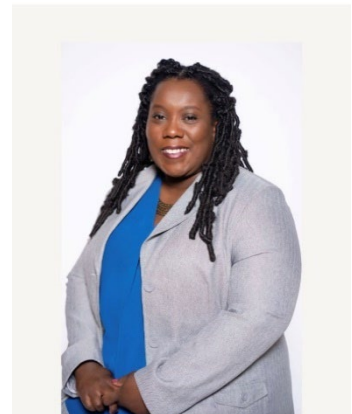


Ms. Van Wie has been active in state and local bar associations and was a co-chair of the Environmental Law Committee of the Chicago Bar Association. Additionally, Ms. Van Wie co-authored an early version of Senate Bill 0550 (now Public Act 99-0922) which required that schools test their potable water sources for lead contamination, and for community water supplies to provide lead in drinking water notifications and inventories. Ms. Van Wie has focused her legal practice exclusively on environmental law and policy for over 20 years.

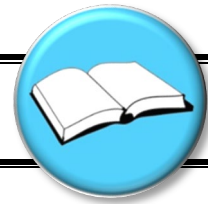
Ms. Van Wie received her Bachelor of Science degree in Public Policy from Indiana University. She received her Juris Doctorate and Master of Studies in Environmental Law from Vermont Law School.

❖ Michelle Gibson

Board Member Gibson was appointed to the Board by Governor JB Pritzker in November 2021. She is a Registered Environmental Health Specialist with over 15 years of experience in environmental consulting, waste diversion, resource management, and environmental public health. Michelle has implemented recycling and waste-reduction programs at hospitals, universities, residential facilities, military bases, manufacturing sites, and large office complexes. She has advised statewide environmental organizations on strategies for waste handling. Michelle also managed a Dekalb County solid waste program through which she worked with landfills and waste haulers to reduce residential waste. In addition, she supervised a team of Boone County environmental health inspectors to enforce standards for clean drinking water, private on-site wastewater treatment systems, and food safety, as well as sanitary conditions at the height of the COVID-19 pandemic. Michelle received her Bachelor of Science degree in environmental science from Illinois State University.



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INTRODUCTION

Under the Environmental Protection Act (Act) (415 ILCS 5), the Board is responsible for adopting the State’s environmental regulations by conducting rulemaking proceedings. Rulemaking generally involves the Board holding quasi-legislative hearings and receiving written public comments on regulatory proposals. The proposals are typically filed by the Illinois Environmental Protection Agency, although the Act provides that they may be filed by “[a]ny person.” 415 ILCS 5/28(a). Based on the record developed during the rulemaking, the Board issues its opinions and orders, addressing the issues and the Board’s reasons for its decisions, in addition to proposing or adopting any new or amended rule language.

The Board’s proposed rules are published in the *Illinois Register* at first notice and later reviewed by the Joint Committee on Administrative Rules (JCAR) at second notice. At final notice, the Board files its adopted rules with the Index Department of the Office of the Secretary of State for both publication in the *Illinois Register* and codification in the Illinois Administrative Code. Besides providing the Board with general rulemaking authority to adopt Statewide and site-specific rules (415 ILCS 5/27, 28), the Act authorizes the Board to conduct expedited and streamlined rulemakings. For example, the Board uses a “fast-track” procedure to adopt rules required by the federal Clean Air Act as amended by the federal Clean Air Act Amendments of 1990 (415 ILCS 5/28.5). Also, after a public comment period but without JCAR’s second-notice review and usually without holding a hearing, the Board adopts rules “identical in substance” to those of the United States Environmental Protection Agency concerning specified subjects, including drinking water, hazardous waste, underground injection control, and wastewater pretreatment (415 ILCS 5/7.2).

The rulemakings completed by the Board in fiscal year 2022 are summarized below, followed by a list of rulemakings pending at the end of that fiscal year.

RULEMAKINGS COMPLETED IN FISCAL YEAR 2022

Board Adopts “Identical-in-Substance” Amendments to Wastewater Pretreatment Rules

- ❖ On June 17, 2021, the Board adopted amendments to Illinois’ wastewater pretreatment rules. The amendments keep these rules “identical in substance” to those of the United States Environmental Protection Agency (USEPA). The Board’s rulemaking responded to amendments adopted by USEPA during the second half of 2020, as detailed below. In addition, the Board included a few non-substantive corrections that were not derived from USEPA actions.



During the second half of 2020, USEPA adopted the Steam Electric Reconsideration Rule, which revised the standards applicable to discharges of flue gas desulfurization (FGD) wastewater and bottom ash (BA) transport water. The Reconsideration Rule relaxed the former zero-discharge rule for BA transport water, extended compliance dates by two years, and created subcategories of dischargers for both waste streams.

Also during the second half of 2020, USEPA extended the compliance date for Phase 2 of its National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule. The deadline for Phase 1 (basic facility and permit information) was December 21, 2016. For Phase 2 (all other reporting), it was December 21, 2020. USEPA extended the Phase 2 deadline to December 21, 2025.

The Board's rulemaking is captioned Wastewater Pretreatment Update, USEPA Amendments (July 1, 2020 through December 31, 2020), docket R21-15. Here are links to (1) the Board's [opinion and order](#), which includes the text of the adopted amendments, and (2) the Board's [addendum](#), which provides tables of information concerning the rulemaking. The amendments were published in the *Illinois Register* on July 2, 2021 (45 Ill. Reg. 8035, 8061).

Board Adopts “Identical-in-Substance” Amendments to Wastewater Pretreatment Rules

- ❖ On May 12, 2022, the Board adopted amendments to the Illinois wastewater pretreatment rules using the identical-in-substance rulemaking procedure. The amendments reflect action taken by the United States Environmental Protection Agency (USEPA) during the first half of 2021. Specifically, USEPA updated the analytical methods used to demonstrate compliance with requirements under the Clean Water Act. Folding USEPA's action into the Illinois rules required updating the Board's incorporation by reference of USEPA rules.

The Board's amendments also reflect minor changes not derived from USEPA's action. These included updating incorporations by reference of *Code of Federal Regulations* and *United States Code* provisions to the latest versions available, as well as updating an address for obtaining a document.

The Board's rulemaking is captioned Wastewater Pretreatment Update, USEPA Regulations (January 1, 2021 through June 30, 2021), docket R22-7. Here are links to (1) the Board's [opinion and order](#), which includes the text of the adopted amendments, and (2) the Board's [addendum](#), which provides tables of information concerning the rulemaking. The amendments were published in the *Illinois Register* on June 3, 2022 (46 Ill. Reg. 9079).

Board Adopts “Identical-in-Substance” Amendments to Ambient Air Quality Standards

- ❖ On May 12, 2022, the Board adopted rule amendments to Illinois' ambient air quality standards. The amendments keep these standards “identical in substance” to the National Ambient Air Quality Standards (NAAQS). Specifically, the amendments reflect two actions taken by the United States Environmental Protection Agency (USEPA) during the first half of 2021: (1) USEPA designated one new federal reference method for sulfur dioxide and one new federal equivalent method for coarse particulate matter in ambient air; and (2) USEPA issued the Round 4 area designations under the 2010 primary NAAQS for sulfur dioxide, which had the effect of revoking the 1971 primary NAAQS for sulfur dioxide in all areas of Illinois effective April 30, 2022. Responding to the first USEPA action, the Board updated the incorporation by reference of the *List of Designated Reference and Equivalent Methods*. And responding to the second USEPA action, the Board removed the 1971 NAAQS for sulfur dioxide from the Illinois rules.



The Board's amendments also reflect minor changes not derived from USEPA's action. These involved updating incorporations by reference of *Code of Federal Regulations* provisions to the latest versions available.

The Board's rulemaking is captioned National Ambient Air Quality Standards Update, USEPA Regulations (January 1, 2021 through June 30, 2021), docket R22-8. Here are links to (1) the Board's [opinion and order](#), which includes the text of the adopted amendments, and (2) the Board's [addendum](#), which provides tables of information concerning the rulemaking. The amendments were published in the *Illinois Register* on June 3, 2022 (46 Ill. Reg. 9068).

Board Amends Title 2 Administrative Rules

- ❖ On May 26, 2022, the Board adopted amendments to its administrative rules at Part 2175 of Title 2 of the Illinois Administrative Code. The administrative rules describe the Board's organization, the types of Board proceedings, how to pay filing and copying fees, and how the public may obtain information from the Board. These amendments reflect the new address of the Board's Chicago office (60 E. Van Buren St., Suite 630, Chicago, Illinois 60605), as well as instructions for the public to access this location. Also among the amendments are additional directions for requesting information under the Freedom of Information Act (FOIA), including a new address for emailed FOIA requests.

The rulemaking is captioned Amendments to the Board's Administrative Rules 2 Ill. Adm. Code 2175, docket R22-20. Here are links to the Board's [opinion and order](#), along with the [amended rules](#). The amendments were published in the *Illinois Register* on June 10, 2022 (46 Ill. Reg. 9973).

RULEMAKINGS PENDING AT END OF FISCAL YEAR 2022

- ❖ Amendments to 35 Ill. Adm. Code Subtitle B: Air Pollution, [docket R18-21](#)
- ❖ Amendments to 35 Ill. Adm. Code Subtitle C: Water Pollution, [docket R18-23](#)
- ❖ Amendments to 35 Ill. Adm. Code Subtitle E: Agriculture-Related Water Pollution, [docket R18-25](#)
- ❖ Amendments to 35 Ill. Adm. Code Subtitle F: Public Water Supplies, [docket R18-26](#)
- ❖ Amendments to 35 Ill. Adm. Code Subtitle G: Waste Disposal, [docket R18-27](#)
- ❖ Amendments to 35 Ill. Adm. Code Subtitle I: Atomic Radiation, [docket R18-28](#)
- ❖ Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments: Proposed New 35 Ill. Adm. Code 845, [docket R20-19\(A\)](#)
- ❖ SDWA Update, USEPA Amendments (July 1, 2020 through December 31, 2020) and SDWA Update, USEPA Amendments (January 1, 2021 through June 30, 2021), dockets [R21-10](#) and [R22-2](#) (consol.)



RULEMAKING UPDATE

- ❖ RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2020 through December 31, 2020), RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (July 1, 2021 through December 31, 2021), and RCRA Subtitle C (Hazardous Waste) Update and Corrections to RCRA Subtitle C and UIC Permit Rules, dockets [R21-13](#) , [R22-13](#), and [R22-19](#) (consol.)
- ❖ Drycleaner Environmental Response Trust Fund Act Proposal to Add 35 Ill. Adm. Code Part 1501, Repeal 35 Ill. Adm. Code Part 1500, and Repeal 2 Ill. Adm. Code Part 3100, [docket R21-19](#)
- ❖ Drycleaner Environmental Response Trust Fund Act Proposal to Add 35 Ill. Adm. Code Part 1501, Repeal 35 Ill. Adm. Code Part 1500, and Repeal 2 Ill. Adm. Code Part 3100, [docket R21-19\(A\)](#)
- ❖ RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (July 1, 2021 through December 31, 2021), [docket R22-12](#)
- ❖ Amendments to 35 Ill. Adm. Code Part 203: Major Stationary Sources Construction and Modification; 35 Ill. Adm. Code Part 204: Prevention of Significant Deterioration; and Part 232: Toxic Air Contaminants, [docket R22-17](#)
- ❖ Proposed Amendments to Groundwater Quality (35 Ill. Adm. Code 620), [docket R22-18](#)



APPELLATE UPDATE



INTRODUCTION

Under the Environmental Protection Act (415 ILCS 5), final orders of the Board are appealable directly to the Illinois appellate court (rather than to the circuit courts) and from there to the Illinois Supreme Court.

During fiscal year 2022, no judicial decisions were issued on review of Board final orders. At the end of the fiscal year, the following appeals were pending in the appellate court:

- ❖ Office of the State Fire Marshal v. Illinois Pollution Control Board and Reliable Stores, Inc., No. 1-21-0507 (1st Dist.) [Board docket PCB 19-2]
- ❖ Midwest Generation, LLC v. Illinois Pollution Control Board, No. 4-21-0304 (4th Dist.); Dynegy Midwest Generation, LLC, Illinois Power Generating Company, Illinois Power Resources Generating, LLC, Electric Energy, Inc., and Kincaid Generation, LLC v. Illinois Pollution Control Board, No. 4-21-0309 (4th Dist.); and AmerenEnergy Medina Valley Cogen, LLC, and Union Electric Company, d/b/a Ameren Missouri v. Illinois Pollution Control Board, No. 4-21-0310 (4th Dist.) (consol.) [Board docket R20-19]
- ❖ IronHustler Excavating, Inc. v. Illinois Pollution Control Board, People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, and River City Construction, LLC, No. 3-21-0518 (3rd Dist.) [Board docket PCB 20-16]
- ❖ CTI Development, LLC v. Illinois Pollution Control Board and Illinois Environmental Protection Agency, No. 5-22-0369 (5th Dist.) [Board docket PCB 21-110]





INTRODUCTION

Summarized below are three Public Acts—from the 2022 session of the 102nd General Assembly—that relate to the Board’s work.

All three Public Acts amended the Environmental Protection Act.

For more information about these and other matters considered during the 2022 session, please consult the General Assembly’s website (<https://www.ilga.gov/>).

PUBLIC ACTS FROM 2022 SESSION OF 102ND GENERAL ASSEMBLY

- ❖ [Public Act 102-960](#)
Effective May 2, 2022

Public Act 102-960 added Section 19.11 to the Environmental Protection Act. Section 19.11 requires a public water distribution entity to notify its water supply operator and affected health care facilities of disruption events. The term “disruption event” is defined to cover five scenarios, including a change to a disinfection practice, damage to a water main, and a condition resulting in a boil-water order issuing. For a “known, planned, or anticipated disruption event,” notification is required “not less than 14 days before” the event; for an “unplanned disruption event,” notification is required “within 2 hours after the public water distribution entity becomes aware of” the event. Public Act 102-960 also requires notification to the Illinois Environmental Protection Agency (IEPA) and the Illinois Department of Public Health (IDPH). And, starting one year after this Public Act’s effective date, IEPA and IDPH must “make available upon request a list of disruption events, in an electronic format, sorted by the year and month of each occurrence.”

- ❖ [Public Act 102-996](#)
Effective May 27, 2022

Public Act 102-996 amended Section 52.10 of the Environmental Protection Act by adding to the membership of the existing Electric Vehicle Permitting Task Force, as well as by extending to August 1, 2022, the deadline for the Task Force’s final report of findings and recommendations. The Task Force’s responsibilities include “identify[ing] existing and potential challenges faced by the electric vehicle industry with respect to the process for obtaining necessary permits from the [Illinois] Environmental Protection Agency, the Department of Natural Resources, and the Department of Transportation, and potential solutions.”



❖ [Public Act 102-1048](#)
Effective June 8, 2022

Public Act 102-1048 added Section 22.62 to the Environmental Protection Act. With specified exceptions, Section 22.62 prohibits disposal by incineration of “Toxic Release Inventory Perfluoroalkyl and Polyfluoroalkyl Substances” or “TRI-PFAS.” This Public Act defines the terms “TRI-PFAS” and “incineration” and authorizes the Illinois Environmental Protection Agency to propose, and the Board to adopt, rules to implement Section 22.62.





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